

Remarks

Claims 1-29 are pending in the application.

Claims 6-9, 12-14, 16, 18, 20-22 are objected to for various informalities.

Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if the 101 rejection can be overcome and if the obvious double patenting rejection can be overcome and if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 7-9 and 13-14 are rejected to as being dependent upon a rejected base claim, but would be allowable if the 101 rejection and the claim objections and the obvious double patenting rejection can be overcome and if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 18, 21 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if the claim objections and obvious double patenting rejection can be overcome and if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 15 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if the obvious double patenting rejection can be overcome and if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 1-3, 6, 10, 11-12, 15-17, 19-20, 23-24 and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen (U.S. Patent No.: 6,567,380, hereinafter "Chen") in view of Bi (U.S. Patent No.: 6,757,278, hereinafter "Bi").

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Bi further in view of Zaumen (U.S. Patent No.: 5,881,243, hereinafter "Zaumen").

Claims 1-14 are rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter.

Claims 1 and 2 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of co-pending application No. 10/875,124.

Claims 1 and 2 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of co-pending application No. 10/670,940.

Each of the various rejections and objections are overcome by amendments that are made to the specification, drawing, and/or claims, as well as, or in the alternative, by various arguments that are presented.

Any amendments to any claim for reasons other than as expressly recited herein as being for the purpose of distinguishing such claim from known prior art are not being made with an intent to change in any way the literal scope of such claims or the range of equivalents for such claims. They are being made simply to present language that is better in conformance with the form requirements of Title 35 of the United States Code or is simply clearer and easier to understand than the originally presented language. Any amendments to any claim expressly made in order to distinguish such claim from known prior art are being made only with an intent to change the literal scope of such claim in the most minimal way, i.e., to just avoid the prior art in a way that leaves the claim novel and not obvious in view of the cited prior art, and no equivalent of any subject matter remaining in the claim is intended to be surrendered.

Also, since a dependent claim inherently includes the recitations of the claim or chain of claims from which it depends, it is submitted that the scope and content of any dependent claims that have been herein rewritten in independent form is exactly the same as the scope and content of those claims prior to having been rewritten in independent form. That is, although by convention such rewritten claims are labeled herein as having been "amended," it is submitted that only the format, and not the content, of these claims has been changed. This is true whether a dependent claim has been rewritten to expressly include the limitations of those claims on which it formerly depended or whether an independent claim has been rewritten to include the limitations of claims that previously depended from it. Thus, by such rewriting no equivalent of any subject matter of the original dependent claim is intended to be surrendered. If the Examiner is of a different view, he is respectfully requested to so indicate.

Rejection Under 35 U.S.C. 101

Claims 1-14 are rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter.

Applicants have herein amended independent claim 1 in order to tie the method to a particular apparatus, namely, a node.

Thus, claim 1 satisfies the requirements of 35 U.S.C. 101, and is patentable thereunder. Furthermore, claims 2-14 depend from claim 1 and recite additional limitations therefor. Thus, claims 2-14 also satisfy the requirements of 35 U.S.C. 101, and are patentable thereunder.

Therefore, the rejection should be withdrawn.

Rejection Under 35 U.S.C. 103

Claims 1-3, 6, 10, 11-12, 15-17, 19-20, 23-24 and 26-28

Claims 1-3, 6, 10, 11-12, 15-17, 19-20, and 26-28

Claims 1-3, 6, 10, 11-12, 15-17, 19-20, and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Bi. The rejection is traversed.

The Examiner bears the initial burden of establishing a prima facie case of obviousness. See MPEP § 2141. Establishing a prima facie case of obviousness begins with first resolving the factual inquiries of *Graham v. John Deere Co.* 383 U.S. 1 (1966). The factual inquiries are as follows:

- (A) determining the scope and content of the prior art;
- (B) ascertaining the differences between the claimed invention and the prior art;
- (C) resolving the level of ordinary skill in the art; and
- (D) considering any objective indicia of nonobviousness.

Once the *Graham* factual inquiries are resolved, the Examiner must determine whether the claimed invention would have been obvious to one of ordinary skill in the art. The key to supporting a rejection under 35 U.S.C. §103 is the clear articulation of the reasons why the claimed invention would have been obvious. The analysis supporting such a rejection must be explicit. "[R]jections on obviousness grounds cannot be

sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." In re Kahn, 441 F. 3d 977, 988 (CA Fed. 2006), cited with approval in KSR Int'l Co. v. Teleflex, Inc., 126 S. Ct. 2965 (2006); see also MPEP §2141.

Chen and Bi, alone or in combination, fail to disclose all of the elements of Applicants' claim 1.

Namely, Chen and Bi, alone or in combination, fail to teach or suggest "transmitting reason information from a node toward at least one other node, wherein the reason information is associated with a route update or withdraw, wherein the reason information comprises a reason for the route update or withdraw, wherein the reason information is adapted to enable identification of candidate routes affected by an event that triggered the route update or withdraw," as claimed in Applicants' claim 1.

Chen, as admitted by the Examiner, is devoid of any teaching or suggestion of transmitting reason information associated with a route update or withdraw.

Rather, Chen merely discloses that a router identifies how a route has changed and compares how the route has changed with configuration information for a neighbor router in order to determine whether or not a route update needs to be sent to that neighbor router.

Thus, Chen fails to teach or suggest "transmitting reason information from a node toward at least one other node, wherein the reason information is associated with a route update or withdraw, wherein the reason information comprises a reason for the route update or withdraw, wherein the reason information is adapted to enable identification of candidate routes affected by an event that triggered the route update or withdraw," as claimed in Applicants' claim 1.

Furthermore, Bi fails to bridge the substantial gap between Chen and Applicants' claim 1.

Bi discloses an ATM-based distributed virtual tandem switching system.

Bi is devoid of any teaching or suggestion of route updates or route withdraws, much less transmitting reason information comprising a reason for a route update or withdraw.

In the Office Action, the Examiner cites a specific portion of Bi (namely, Col. 7, Lines 49- 67) as support for the Examiner's rejection of Applicants' claim 1. The cited portion of Bi, however, is devoid of any teaching or suggestion of reason information that is associated with a route update or withdraw. Rather, the cited portion of Bi merely discloses that if a call setup request is rejected for a closed user group-related reason, the cause code in the rejection message will indicate such. The rejection message in Bi is not a route update or withdraw. The rejection message in Bi has nothing to do with routes, much less route updates or route withdraws. The cause code included in the rejection message in Bi is not a reason for a route update or route withdraw; rather, the cause code included in the rejection message of Bi indicates that a call setup request is rejected for a closed user group-related reason. Bi is devoid of any teaching or suggestion of a reason for a route update or withdraw.

Thus, Bi fails to teach or suggest "transmitting reason information from a node toward at least one other node, wherein the reason information is associated with a route update or withdraw, wherein the reason information comprises a reason for the route update or withdraw, wherein the reason information is adapted to enable identification of candidate routes affected by an event that triggered the route update or withdraw," as claimed in Applicants' claim 1.

Furthermore, Applicants submit that even assuming *arguendo* that a combination of Chen and Bi may be interpreted as teaching transmission of reason information associated with a route update or withdraw (which, at least for the reasons presented hereinabove, Applicants maintain that it cannot), a combination of Chen and Bi would still fail to teach or suggest reason information that is adapted to enable identification of candidate routes affected by an event that triggered the route update or withdraw.

Thus, for at least these reasons, Chen and Bi, alone or in combination, fail to teach or suggest "transmitting reason information from a node toward at least one other node, wherein the reason information is associated with a route update or withdraw, wherein the reason information comprises a reason for the route update or withdraw, wherein the reason information is adapted to enable identification of candidate routes affected by an event that triggered the route update or withdraw," as claimed in Applicants' claim 1.

As such, independent claim 1 is patentable under 35 U.S.C. 103(a) over Chen in view of Bi. Similarly, independent claims 15 and 26 recite relevant limitations similar to those recited in independent claim 1 and, as such, and at least for the same reasons as discussed above, these independent claims also are patentable under 35 U.S.C. 103(a) over Chen in view of Bi. Furthermore, since all of the dependent claims that depend from the independent claims include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim is also patentable under 35 U.S.C. 103(a) over Chen in view of Bi.

Therefore, the rejection should be withdrawn.

Claims 23-24

Claims 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Bi. The rejection is traversed.

The Examiner bears the initial burden of establishing a prima facie case of obviousness. See MPEP § 2141. Establishing a prima facie case of obviousness begins with first resolving the factual inquiries of *Graham v. John Deere Co.* 383 U.S. 1 (1966). The factual inquiries are as follows:

- (A) determining the scope and content of the prior art;
- (B) ascertaining the differences between the claimed invention and the prior art;
- (C) resolving the level of ordinary skill in the art; and
- (D) considering any objective indicia of nonobviousness.

Once the *Graham* factual inquiries are resolved, the Examiner must determine whether the claimed invention would have been obvious to one of ordinary skill in the art. The key to supporting a rejection under 35 U.S.C. §103 is the clear articulation of the reasons why the claimed invention would have been obvious. The analysis supporting such a rejection must be explicit. "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 441 F. 3d 977, 988 (CA Fed. 2006), cited with approval in *KSR Int'l Co. v. Teleflex, Inc.*, 126 S. Ct. 2965 (2006); see also MPEP §2141.

Chen and Bi, alone or in combination, fail to disclose all of the elements of Applicants' claim 23.

Namely, Chen and Bi, alone or in combination, fail to teach or suggest “transmitting reason information associated with a route update or withdraw to neighboring devices, wherein the reason information comprises a reason for the route update or withdraw, receiving reason information associated with a received route update or withdraw, and using said received reason information to determine which candidate routes are affected by the event that triggered the received route update or withdraw and which candidate routes are not affected by the event that triggered the received route update or withdraw,” as claimed in Applicants' claim 23.

Chen, as admitted by the Examiner, is devoid of any teaching or suggestion of transmitting reason information associated with a route update or withdraw. Similarly, Chen is devoid of any teaching or suggestion of receiving reason information associated with a received route update or withdraw.

Rather, Chen merely discloses that a router identifies how a route has changed and compares how the route has changed with configuration information for a neighbor router in order to determine whether or not a route update needs to be sent to that neighbor router.

Thus, Chen fails to teach or suggest “transmitting reason information associated with a route update or withdraw to neighboring devices, wherein the reason information comprises a reason for the route update or withdraw, receiving reason information associated with a received route update or withdraw, and using said received reason information to determine which candidate routes are affected by the event that triggered the received route update or withdraw and which candidate routes are not affected by the event that triggered the received route update or withdraw,” as claimed in Applicants' claim 23.

Furthermore, Bi fails to bridge the substantial gap between Chen and Applicants' claim 23.

Bi discloses an ATM-based distributed virtual tandem switching system.

Bi is devoid of any teaching or suggestion of route updates or route withdraws, much less transmitting, receiving, or using reason information associated with a route

update or withdraw. Rather, Bi merely discloses that if a call setup request is rejected for a closed user group-related reason, the cause code in the rejection message will indicate such. The rejection message in Bi is not a route update or withdraw. The rejection message in Bi has nothing to do with routes, much less route updates or route withdraws. The cause code included in the rejection message in Bi is not a reason for a route update or route withdraw; rather, the cause code included in the rejection message of Bi indicates that a call setup request is rejected for a closed user group-related reason.

Thus, Bi fails to teach or suggest transmitting reason information associated with a route update or withdraw to neighboring devices, receiving reason information associated with a received route update or withdraw, or using reason information associated with a route update or withdraw to determine which candidate routes are affected by the event that triggered the received route update or withdraw and which candidate routes are not affected by the event that triggered the received route update or withdraw.

Thus, Bi fails to teach or suggest “transmitting reason information associated with a route update or withdraw to neighboring devices, wherein the reason information comprises a reason for the route update or withdraw, receiving reason information associated with a received route update or withdraw, and using said received reason information to determine which candidate routes are affected by the event that triggered the received route update or withdraw and which candidate routes are not affected by the event that triggered the received route update or withdraw,” as claimed in Applicants’ claim 23.

Thus, for at least these reasons, Chen and Bi, alone or in combination, fail to teach or suggest “transmitting reason information associated with a route update or withdraw to neighboring devices, wherein the reason information comprises a reason for the route update or withdraw, receiving reason information associated with a received route update or withdraw, and using said received reason information to determine which candidate routes are affected by the event that triggered the received route update or withdraw and which candidate routes are not affected by the event that triggered the received route update or withdraw,” as claimed in Applicants’ claim 23.

As such, independent claim 23 is patentable under 35 U.S.C. 103(a) over Chen in view of Bi. Furthermore, since all of the dependent claims that depend from the independent claims include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim is also patentable under 35 U.S.C. 103(a) over Chen in view of Bi.

Therefore, the rejection should be withdrawn.

Claim 5

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Bi further in view of Zaumen.

Each ground of rejection applies only to dependent claims, and each is predicated on the validity of the rejection under 35 U.S.C. 103 given Chen in view of Bi. Since the rejection under 35 U.S.C. 103 given Chen in view of Bi has been overcome, as described hereinabove, and there is no argument put forth by the Office Action that Zaumen supplies that which is missing from Chen in view of Bi to render the independent claims obvious, these grounds of rejection cannot be maintained..

Therefore, the rejection should be withdrawn.

Double Patenting Rejection

Claims 1 and 2 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of co-pending application No. 10/875,124.

Claims 1 and 2 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of co-pending application No. 10/670,940.

Applicants respectfully submit that, since a double patenting rejection depends on the claims of the application, until Applicants have claims that are allowable but for the double patenting rejection, Applicants cannot evaluate the correctness of any suggested double patenting rejection. As such, Applicants also cannot determine any arguments that might be put forth against the suggested double patenting rejection. Therefore, as

this double patenting rejection is premature, Applicants will address such a ground of rejection once all other grounds of rejection are overcome.

Claim Objections

Claims 6-9, 12-14, 16, 18, 20-22 are objected to for various informalities.

Applicants have herein amended the claims such that the objections raised by the Examiner are moot.

Therefore, the objections should be withdrawn.

Allowable Subject Matter

Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if the 101 rejection can be overcome and if the obvious double patenting rejection can be overcome and if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 7-9 and 13-14 are rejected to as being dependent upon a rejected base claim, but would be allowable if the 101 rejection and the claim objections and the obvious double patenting rejection can be overcome and if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 18, 21 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if the claim objections and obvious double patenting rejection can be overcome and if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 25 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if the obvious double patenting rejection can be overcome and if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants thank the Examiner for indicating allowability with respect to claims 4, 7-9, 13-14, 18, 21-22, 25 and 29. For the reasons set forth above, Applicants submit that the independent base claims are allowable ; thus, dependent claims 4, 7-9, 13-14, 18, 21-22, 25 and 29 are also allowable.

Therefore, the objections should be withdrawn.


Conclusion

It is respectfully submitted that the Office Action's rejections have been overcome and that this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

If, however, the Examiner still believes that there are unresolved issues, the Examiner is invited to call Eamon Wall at (732) 842-8110 x120 so that arrangements may be made to discuss and resolve any such issues.

Respectfully submitted,

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